
34. Summary Disposal of Complaints (Solicitors) Rules

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PART 1

PRELIMINARY

1. **Commencement**

omitted

2. **Interpretation**

In these Rules, unless the context otherwise requires -

“affidavit” (誓章) includes affirmation;

“Council representative” (理事會代表) means a solicitor or counsel appointed by the Council to represent it in the handling of a matter regarding the conduct of a solicitor, a foreign lawyer, a trainee solicitor, or an employee of a solicitor or a foreign lawyer;

“fixed investigation cost” (定額調查費用), in relation to a scheduled item, means the Council’s fixed investigation cost specified opposite the item in column 4 of the Schedule;

“fixed penalty” (定額罰款), in relation to a scheduled item, means the fixed penalty specified opposite the item in column 3 of the Schedule;

“relevant person” (有關人士) means a solicitor, a foreign lawyer, a trainee solicitor, or an employee of a solicitor or a foreign lawyer, to whom a complaint sheet has been sent under section 4;

“scheduled item” (表列項目) means a provision, practice direction or principle of professional conduct specified in column 2 of the Schedule;

“Tribunal Convenor” (審裁組召集人) means the Tribunal Convenor appointed under section 9(4) of the Ordinance.

3. **Provisions, etc. prescribed for purposes of section 9A(1A) of Ordinance**

The provisions, practice directions and principles of professional conduct specified in column 2 of the Schedule are prescribed for the purposes of section 9A(1A) of the Ordinance.

PART 2

PROCEDURES BEFORE SUBMISSION OF MATTER TO TRIBUNAL CONVENOR

4. Council representative to send complaint sheet when Council decides to submit matter to Tribunal Convenor

- (1) If the Council decides to submit a matter regarding the conduct of a solicitor, a foreign lawyer, a trainee solicitor, or an employee of a solicitor or a foreign lawyer to the Tribunal Convenor under section 9A(1A) of the Ordinance, the Council representative shall send to the solicitor, foreign lawyer, trainee solicitor or employee a complaint sheet stating the particulars of the complaint together with a summary of facts relating to the conduct being complained of.
- (2) The complaint sheet shall be sent together with a notice -
 - (a) stating that the relevant person's conduct involves an alleged breach of a scheduled item and that the Council has decided to submit the matter to the Tribunal Convenor under section 9A(1A) of the Ordinance and that accordingly -
 - (i) if the relevant person admits liability for the alleged breach and agrees to the matter being disposed of by the Tribunal Convenor under section 9AB of the Ordinance, the matter shall be so disposed of by the Tribunal Convenor and the relevant person shall be only liable to pay a fixed penalty and a fixed investigation cost; and
 - (ii) if the relevant person does not admit liability for the alleged breach or does not agree to the matter being disposed of by the Tribunal Convenor, the matter shall be disposed of by the Solicitors Disciplinary Tribunal;
 - (b) requiring the relevant person to notify the Council representative in writing within 21 days after receiving the complaint sheet whether or not the relevant person wishes to discuss the matter with the Council representative; and
 - (c) stating that if the relevant person does not notify the Council representative as required by paragraph (b), the matter shall be disposed of by the Solicitors Disciplinary Tribunal.
- (3) The amounts of the fixed penalty and the fixed investigation cost referred to in subsection (2)(a)(i) shall be specified in the notice.

5. Revocation of decision by Council

- (1) Notwithstanding the sending of a complaint sheet to a relevant person under section 4, the Council may, at any time within 21 days thereafter but before the receipt by the Council representative of notification from the relevant person as to whether he wishes to discuss the matter with the Council representative, revoke its decision to submit the matter to the Tribunal Convenor under section 9A(1A) of the Ordinance.

- (2) Upon revoking its decision, the Council shall forthwith notify the relevant person in writing of this fact.

6. Discussion of complaint

Unless the Council has revoked its decision to submit the matter to the Tribunal Convenor in accordance with section 5, if a relevant person notifies the Council representative that he wishes to discuss the matter, the Council representative and the relevant person have a period of 21 days beginning on the day after the receipt of the notification by the Council representative to discuss and agree in writing the facts of the case.

7. Amendment of complaint sheet, etc.

At the end of the period referred to in section 6, if the Council representative considers that the agreed facts are sufficient to establish the liability of the relevant person, he -

- (a) may amend the complaint sheet, if necessary; and
- (b) shall prepare a statement of the agreed facts and sign the statement on behalf of the Council,

and shall send the complaint sheet or amended complaint sheet (as appropriate) and the statement of agreed facts to the relevant person.

8. Agreeing to disposal of matter by Tribunal Convenor

If a relevant person wishes to have a matter disposed of by the Tribunal Convenor under section 9AB of the Ordinance, he shall, within 14 days after receiving the statement of agreed facts, sign and return the statement to the Council representative and indicate in writing that he admits liability for the breach of the scheduled item as alleged and agrees to the matter being disposed of by the Tribunal Convenor under that section.

PART 3

**SUBMISSION OF MATTER TO AND DISPOSAL OF MATTER BY
TRIBUNAL CONVENOR**

9. Application of Part 3

- (1) This Part applies in relation to a matter regarding the conduct of a relevant person if the relevant person -
- (a) admits liability for the breach of the scheduled item as alleged;
- (b) agrees to the matter being disposed of by the Tribunal Convenor under section 9AB of the Ordinance; and
- (c) signs and returns the statement of agreed facts,
- within the time prescribed in section 8.

- (2) In any other case, the Solicitors Disciplinary Tribunal Proceedings Rules (Cap. 159 sub. leg.) apply but any information obtained by the relevant person or the Council in the course of or as a result of the discussion of the matter under section 6 may not be used by the relevant person or the Council as evidence in any proceedings against the relevant person under those Rules unless the party against whom the information is proposed to be used consents in writing to the information being so used.

10. Submission of matter to Tribunal Convenor

- (1) A submission to the Tribunal Convenor to dispose of a matter under section 9AB of the Ordinance shall –
 - (a) be in writing and signed on behalf of the Council by the Secretary General of the Society or by such other person as the Council may from time to time appoint;
 - (b) state that the conditions mentioned in subsection (1) of that section that have to be satisfied before the Tribunal Convenor can dispose of the matter have been satisfied; and
 - (c) be accompanied by an affidavit sworn by the Secretary General of the Society or by such other person as the Council may from time to time appoint.
- (2) The affidavit referred to in subsection (1)(c) shall state -
 - (a) the capacity of the deponent;
 - (b) the deponent's means of knowledge of the facts; and
 - (c) the pertinent information about the relevant person,and shall exhibit the statement of agreed facts signed by the Council and the relevant person.
- (3) The Council shall, at the same time as it makes a submission to the Tribunal Convenor, send a copy of the submission to the relevant person.

11. Sending order to relevant person

- (1) As soon as practicable after receiving a submission, the Tribunal Convenor shall make an order under section 9AB(2) of the Ordinance.
- (2) The Tribunal Convenor shall send the order to the relevant person within 7 days of its making.

PART 4

GENERAL

12. Correction of errors in orders

- (1) Where there is a clerical error in an order made under section 9AB(2) of the Ordinance, the Tribunal Convenor may, on his own initiative or on the application of the Council or the relevant person against whom the order was made, correct the error in the order and may for that purpose require the relevant person to produce the order to him for correction.
- (2) The Tribunal Convenor shall file a copy of an amended order with the Secretary General of the Society.

13. Sending documents

- (1) Any document to be sent (however described) to any person under these Rules is regarded as duly sent if it is -
 - (a) delivered to that person personally; or
 - (b) left at or sent by registered post to the last known place of business or abode of that person.
- (2) Where the person to whom a document is to be sent is a solicitor or a foreign lawyer and that person either agrees to accept service through a document exchange or states his document exchange number on his letterhead, the document is also regarded as duly sent if it is left at that document exchange or at a document exchange that transmits documents every business day to that document exchange. A document so left is regarded to have been received on the day on which it is left.
- (3) In this section, “business day” (工作天) and “document exchange” (文件轉遞處) have the meanings respectively assigned to them by Order 65, rule 5 of the Rules of the High Court (Cap. 4 sub. leg. A).

SCHEDULE

[ss. 2 & 3]

SCHEDULED ITEMS

Legal Practitioners Ordinance (Cap. 159)

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 8(1)	10,000	15,000
2.	Section 7AI(1)	10,000	15,000
3.	Section 7AI(2)	10,000	15,000
4.	Section 7AJ(a)	10,000	15,000
5.	Section 7AJ(b)	10,000	15,000
6.	Section 7AK(1)	10,000	15,000
7.	Section 7AK(2)	10,000	15,000
8.	Section 7AL(1)	10,000	15,000
9.	Section 7AL(2)	10,000	15,000

Solicitors' Practice Rules (Cap. 159 sub. leg. H)

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Rule 2B(2)	10,000	15,000
2.	Rule 2B(3)	10,000	15,000
3.	Rule 4A(a)	10,000	15,000
4.	Rule 4A(b)	10,000	15,000
5.	Rule 4B(1)	10,000	15,000
6.	Rule 4B(2)	10,000	15,000
7.	Rule 4B(4)	10,000	15,000
8.	Rule 5(1)	10,000	15,000
9.	Rule 5(1A)	10,000	15,000
10.	Rule 5(2)	10,000	15,000
11.	Rule 5(3)	10,000	15,000
12.	Rule 5D(a)	10,000	15,000
13.	Rule 5D(b)	10,000	15,000
14.	Rule 5D(c)	10,000	15,000
15.	Rule 5D(d)	10,000	15,000
16.	Rule 5D(e)	10,000	15,000
17.	Rule 5D(f)	10,000	15,000
18.	Rule 5D(g)	10,000	15,000

**Solicitors (Professional Indemnity) Rules
(Cap. 159 sub. leg. M)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Rule 8(1)(a)	10,000	15,000

**Foreign Lawyers Practice Rules
(Cap. 159 sub. leg. R)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 5(1)	10,000	15,000
2.	Section 5(2)	10,000	15,000
3.	Section 6(a)	10,000	15,000
4.	Section 6(b)	10,000	15,000
5.	Section 7(4)	10,000	15,000
6.	Section 8(1)	10,000	15,000
7.	Section 8(3)	10,000	15,000
7A.	Section 8(4)	10,000	15,000
8.	Section 9(1)	10,000	15,000
9.	Section 9(1A)	10,000	15,000
10.	Section 9(2)	10,000	15,000
11.	Section 9(3)	10,000	15,000

**Continuing Professional Development Rules
(Cap. 159 sub. leg. W)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 5(1)	10,000	15,000
2.	Section 5(2)	10,000	15,000

**Legal Practitioners (Risk Management Education) Rules
(Cap. 159 sub. leg. Z)**

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Section 5(1)	10,000	15,000
2.	Section 6(1)	10,000	15,000
3.	Section 7(2)	10,000	15,000

Practice Directions issued by the Society

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Practice Direction B1	10,000	15,000
2.	Practice Direction C3, paragraph (2)	10,000	15,000
3.	Practice Direction D2, paragraph (1)	10,000	15,000
4.	Practice Direction D5, paragraph (4)	10,000	15,000
5.	Practice Direction D7, paragraph (1)	10,000	15,000
6.	Practice Direction D7, paragraph (2)	10,000	15,000
7.	Practice Direction D8, paragraph (1)	10,000	15,000
8.	Practice Direction D8, paragraph (2)	10,000	15,000
9.	Practice Direction F1, paragraph (1)	10,000	15,000
10.	Practice Direction G1, paragraph (1)	10,000	15,000
11.	Practice Direction G1, paragraph (2)	10,000	15,000
12.	Practice Direction G1A, paragraph (1)	10,000	15,000
13.	Practice Direction G2, paragraph (1)	10,000	15,000
14.	Practice Direction H1, paragraph (2)	10,000	15,000

The Hong Kong Solicitors' Guide to Professional Conduct

Item	Description	Fixed penalty \$	Fixed investigation cost \$
1.	Principle 13.09	10,000	15,000
2.	Principle 14.02	10,000	15,000